

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

UNITED STATES OF AMERICA
ex rel. WEALTHY EANES,

Plaintiffs,

v.

Civil Action No. 3:16-cv-10563

FILED UNDER SEAL

DAN O'HANLAN and
JOHN "JACK" LAISHLEY,

Defendants.

**UNITED STATES OF AMERICA'S MOTION TO DISMISS,
OR, IN THE ALTERNATIVE,
NOTICE OF ELECTION TO DECLINE INTERVENTION**

Now comes the United States of America ("United States") and pursuant to 31 U.S.C. § 3730(c)(2)(A), hereby moves to dismiss the above-referenced *qui tam* action. As grounds for the motion, the complaint fails to state an actionable false claim under the federal False Claims Act, 31 U.S.C. §§ 3729-3733, and the Relator cannot prosecute this action *pro se*. As further grounds, the United States incorporates its memorandum in support of this motion.

In the alternative, and in the event that the Court does not grant the motion to dismiss, the United States, pursuant to 31 U.S.C. § 3730(b)(4)(B), notifies the Court of its decision to decline to intervene in this action. Although the United States declines to intervene, the United States respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows a relator to bring an action in the name of the United States, providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." 31 U.S.C. § 3730(b)(1). Therefore, the United States requests that, should either the

Relator or the Defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States and that orders issued by the Court be sent to the counsel for the United States. The United States reserves its right to order any deposition transcripts, to intervene in this action for good cause at a later date, and to seek the dismissal of the Relator's action or claims under 31 U.S.C. § 3730(e)(4). The United States also requests that it be served with all notices of appeal.

Finally, the United States requests that Relator's complaint and this motion and notice be unsealed.

Respectfully submitted,

CAROL A. CASTO
United States Attorney

s/Jennifer M. Mankins

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2017, I filed the foregoing UNITED STATES OF AMERICA'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, NOTICE OF ELECTION TO DECLINE INTERVENTION and MEMORANDUM IN SUPPORT with the Clerk of the Court under seal, and that I have mailed by United States Postal Service the document to the following *pro se* non-CM/ECF participant:

Wealthy Eanes
OID No. 3484831
Northern Regional Jail and Correctional Facility
112 Northern Regional Correctional Drive
Moundsville, WV 26041

s/Jennifer M. Mankins

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